UNITED
NATIONS

E

Economic and Social
Council

Distr
GENERAL

E/CN.4/2000/11
9 March 2000

ENGLISH
Original: SPANISH

COMMISSION ON HUMAN RIGHTS
Fifty-sixth session
Item 3 of the provisional agenda

ORGANIZATION OF THE WORK OF THE SESSION

Report of the United Nations High Commissioner for Human Rights on the Office in Colombia

CONTENTS

		Paragraphs	Page
Introduction		1 - 4	4
I.	ACTIVITIES OF THE OFFICE	5 - 11	4
II.	VISITS TO COLOMBIA BY SPECIAL REPRESENTATIVES OF THE SECRETARY-GENERAL	12 - 15	5
III.	NATIONAL CONTEXT	16 - 22	6
IV.	SITUATION OF HUMAN RIGHTS AND INTERNATIONAL HUMANITARIAN LAW	23 - 127	8
	A. Civil and political rights	27 - 55	8
	B. Economic, social and cultural rights	56 - 67	14

GE.00-11522 (E)

CONTENTS (continued)

		Paragraphs	Page
C.	Particularly vulnerable groups	68 - 77	17
D.	Main breaches of international humanitarian law	78 - 98	19
E.	Situations of special concern	99 - 127	22
V.	FOLLOW-UP OF INTERNATIONAL RECOMMENDATIONS	128 - 154	27
A.	Recommendations on the adoption of human rights and international humanitarian law measures, programmes and policies	129 - 134	27
B.	Recommendations on legislation	135 - 145	28
C.	Recommendations on the functioning of justice	146 - 150	31
D.	Recommendations on the protection of vulnerable groups	151 - 154	32
VI.	ADVISORY AND TECHNICAL ASSISTANCE ACTIVITIES OF THE OFFICE IN COLOMBIA	155 - 164	32
A.	Office of the Vice-President of the Republic	158	33
B.	Attorney-General's Office	159	33
C.	Supreme Judicial Council	160	34
D.	Procurator-General's Office	161	34
E.	Office of the People's Advocate	162	34
F.	National University	163	35
G.	Non-governmental organizations	164	35
VII.	CONCLUSIONS	165 - 182	35
VIII.	RECOMMENDATIONS	183 - 203	38

List of abbreviations

ACCU	Peasant Self-Defence Groups, Córdoba and Urabá
AUC	United Self-Defence Groups of Colombia
CINEP	Research and Popular Education Centre
CODHES	Consultoría para los Derechos Humanos y el Desplazamiento (Advisory Office for Human Rights and Displacement)
CONPES	Economic and Social Policy Council
CSSP	Political Prisoners Solidarity Committee
CTI	Technical Investigation Unit of the Office of the Procurator-General
CUT	Trade Union Confederation
DAS	Administrative Department of Security
DNP	National Planning Department
ELN	National Liberation Army
EPL	Patriotic Liberation Army
FARC	Revolutionary Armed Forces of Colombia
FECODE	Centre for Economic Development Studies
GDP	Gross domestic product
ICBF	Colombian Family Welfare Institute
ICRC	International Committee of the Red Cross (Colombia)
IDHC	Human Development Report for Colombia
ILO	International Labour Organization
NGO	Non-governmental organization
UC-ELN	Camilista Union - National Liberation Army
UPAC	Mortgage Credit System
UNDP	United Nations Development Programme
UNHCR	Office of the United Nations High Commissioner for Refugees

INTRODUCTION

1. The Commission on Human Rights has been following the human rights situation in Colombia with concern for several years. Thus, in 1996, 1997 and 1998, statements were made by its Chairperson indicating concern about the human rights situation in Colombia, recognizing the efforts that the Government has been making in this field. In 1996, the Commission on Human Rights requested the Office of the United Nations High Commissioner for Human Rights to establish an office in Colombia pursuant to the invitation by the Government of Colombia.

2. The Office of the United Nations High Commissioner for Human Rights in Colombia was established on 26 November 1996 under an agreement signed by the then Minister for Foreign Affairs of Colombia and the then United Nations High Commissioner for Human Rights. Under the terms of that agreement, the Office is to monitor the human rights situation in order to advise the Colombian authorities on the formulation and implementation of policies, programmes and measures for the promotion and protection of human rights in the context of violence and internal armed conflict in the country and to enable the High Commissioner to submit analytical reports to the Commission on Human Rights. The agreement, which was in force for 12 months, was extended for the second time, by an exchange of letters, up to April 2000.

3. At the fifty-fifth session of the Commission on Human Rights (1999), the Chairperson, in a statement on behalf of the Commission, said that "The Commission continues to believe that the Office continues to perform a vital role in addressing ongoing violations of human rights and international humanitarian law in Colombia" ... and "requests the High Commissioner to submit to it at its next session a detailed report on the activities of the Office of the United Nations High Commissioner for Human Rights, containing an analysis by the Office in Bogotá of the situation of human rights in Colombia, in accordance with the provisions of the agreement between the Government of Colombia and the Office of the High Commissioner on the operation of the permanent Office in Bogotá" (E/1999/23-E/CN 4/1999/167, para. 32).

4. The present report deals with the period between January and December 1999 and is based on information which was collected by the Office in Bogotá directly or through its interlocutors (such as national authorities, NGOs or national and international agencies) and which it analysed.

I. ACTIVITIES OF THE OFFICE

5. In 1999, the Office was reorganized in order to strengthen the coordination of its activities. Three areas were created (monitoring, legal, and technical cooperation) and its work was carried out accordingly. Activities were designed to strengthen its monitoring capacity, develop and improve dialogue and cooperation with government agencies and human rights NGOs and enhance its capacity to formulate proposals, its image and its presence in society.

6. The complaints submitted to the Office continued to be an important source of access to and understanding of conditions in the country. In 1999, 1,376 complaints were received, 211 communications were sent to the authorities and many direct representations were made.

7. Members of the Office visited various parts of the country, making a total of 56 on-site visits in 121 days of activity outside Bogotá. These trips focused mainly on regions of special concern in view of the seriousness of the human rights violations and breaches of international humanitarian law, areas where possibilities of preventing such violations and breaches were identified and places where it was essential to provide support for the victims.

8. The Office stepped up its legal advisory activities and attended many working meetings of committees and other bodies in order to promote the investigation of violations of human rights and international humanitarian law and to prepare programmes and identify action for the protection and safeguard of such rights and the follow-up to recommendations. Various legal and promotional documents on international standards were prepared. In this connection, the Office started up a series of publications by preparing six information sheets in order to define concepts that help analyse current national issues in the context of international legislation.

9. With regard to advisory and technical assistance activities, the Office intensified talks with Colombian institutions responsible for protecting and promoting human rights, as well as with NGOs and academic institutions (see chap. VI, paras. 155-164).

10. The Office, the Research and Popular Education Centre (CINEP), the Colombian Commission of Jurists, the Social Foundation and the Jesuit Peace Programme held an international seminar on "Truth and Justice in Peace Processes and the Transition to Democracy" in September. International speakers discussed this topic on the basis of the experience of El Salvador, Guatemala, Argentina, Chile, the former Yugoslavia and South Africa. In December, the Office published the report of the seminar.

11. As part of its promotion and information policy, the Office took part in activities such as seminars, forums, workshops and conferences. In its work with the media, moreover, it organized four workshops for journalists and its Director gave several interviews, held two press conferences and took part in many working meetings with the directors of the country's most prestigious media. The Office issued 35 press releases. It also prepared a leaflet for the general public explaining its mandate and functions in the country.

II. VISITS TO COLOMBIA BY SPECIAL REPRESENTATIVES OF THE SECRETARY-GENERAL

Visit by the Representative of the Secretary-General on internally displaced persons

12. The Representative of the United Nations Secretary-General on internally displaced persons, Mr. Francis Deng, visited Colombia from 21 to 27 May 1999. His main objectives were to assess changes in this situation since his 1994 visit and, in particular, the extent to which his recommendations had been implemented, to study the current situation of displacement and to formulate new observations and recommendations. To this end, he met with government authorities, national and international NGOs and displaced communities. He also visited the departments of Sucre, Bolívar and Santander.

13. Mr. Deng recognized that there had been some progress since 1994, particularly as a result of the adoption of a legislative framework and institutional mechanisms to deal with the problem of internal displacement. However, he took note of the dramatic increase in the number of displaced persons and the continued existence of serious threats against some of them, he stressed the need to guarantee their protection, in both the places to which they return and places where they are resettled. He also emphasized the need for the implementation of adequate prevention and assistance measures, particularly for women and children, for clarification of institutional responsibilities and policies and for intensified efforts to implement them (see E/CN.4/2000/83 and 83/Add.1 and 2).

Visit by the Special Representative of the Secretary-General on the impact of armed conflict on children

14. The Special Representative of the Secretary-General on the impact of armed conflict on children, Mr. Olara A. Otunnu, visited the country from 30 May to 6 June. The purpose was to learn about the impact of the armed conflict on Colombian children, identify concrete measures to ensure better protection of the children affected, urge the parties to the armed conflict to respect humanitarian standards and principles and, lastly, make this problem a priority topic on the peace agenda. Mr. Otunnu met with government authorities and NGOs and held a meeting with Raúl Reyes, spokesman of the Revolutionary Armed Forces of Colombia (FARC) in the "demilitarized zone" (see chap. III, paras. 17 and 18 and chap. IV.E.1, paras. 106 and 107). He visited Apartadó, Turbo, the San José de Apartadó "Peace Community", Quibdó (Chocó), Medellín (Antioquia) and San Vicente del Caguán (Caquetá), as well as displaced communities in the Soacha district, to the south of Bogotá.

15. Mr. Otunnu expressed concern about the serious effects of the armed conflict on Colombian children and urged the parties to the conflict to respect children in the context of hostilities; he strongly condemned the practice of kidnapping, urged that measures should be taken to protect and assist the displaced population and proposed that joint efforts should be made to provide humanitarian assistance in the "demilitarized zone" (see E/CN.4/2000/71, paras. 60-71 and annex II).

III. NATIONAL CONTEXT

16. The main political events of 1999 in Colombia related to three major processes: initiatives and action to start up peace talks between the Government and the guerrillas, mainly the FARC; the crisis in the national economy, which, in 1999, dropped to the lowest level in the last 50 years; and the opening up of the country's political, social and economic agenda to a wide-ranging appeal for help from the international community. However, none of these processes brought about a marked change in the increasingly violent nature of the armed conflict.

17. President Pastrana's decision to promote peace talks with the FARC and create a "demilitarized zone" for this purpose was sustained throughout the year. The zone was established on 7 November 1998, when the Government ordered the security forces to withdraw from five municipalities in the departments of Meta and Caquetá, which remained under guerrilla control. On 7 January 1999, President Pastrana officially began preliminary work on drawing up an agenda for talks and negotiations.

18. This process has suffered various setbacks, particularly in relation to the continued existence of the "demilitarized zone", which was originally established for three months. This created a serious institutional crisis that led to the resignation of the Minister of Defence and the announcement that several senior military officers had resigned. Once the crisis had been averted, the "demilitarized zone" was maintained for the rest of the year. Disputes of various types have arisen during the talks process, some of which have still not been completely settled. There is concern about the effective exercise of public freedoms and fundamental guarantees by the population in the "demilitarized zone" and the conduct of the FARC (see chap. IV.E.1, paras. 106 and 107). The search for a neutral mechanism to verify conduct in the zone has been unsuccessful.

19. On 20 December 1999, the FARC also announced a unilateral ceasefire up to 10 January 2000. Although it was preceded by an escalation of violence during the previous two weeks in nine of the country's 32 departments and despite the scepticism of some military sectors of the political leadership, the ceasefire seems to have been observed by the armed group.

20. Furthermore, contacts between the Government and the National Liberation Army (ELN) have become much less regular and continuous after the "National Convention" proposed by this group as a mechanism for advancing peace talks was postponed indefinitely in February 1999. The progress made in 1998 suffered a serious setback when the ELN began a series of large-scale civilian kidnappings. As a result of these adverse conditions, the Government did not resume the talks process until November 1999.

21. Owing to the performance of the country's economy during the year, it may be said that Colombia is experiencing a serious economic crisis, with strong social and trade union protests. It should be mentioned that, on 25 January 1999, a devastating earthquake hit four departments in the country's coffee-growing region, seriously affecting the national economy; there were reports of more than 1,000 dead and 250,000 injured. Despite the emergency measures put in place by the Government and the assistance received to rebuild the area, the social and economic recovery of the villages affected will require enormous efforts and resources for several years. However, this alone does not explain the magnitude of the economic crisis. Drug trafficking continues to affect the country and following the capture of several people, proceedings for extradition to the United States were instituted towards the end of the year.

22. Aware of the new trends in international cooperation relations and wishing to take a leading role in the field of international diplomacy once more - now that the problems in this area that affected the previous administration have been overcome the Colombian Government has been making determined efforts to call for international assistance. Mr. Jan Egeland, who was appointed by the United Nations Secretary-General as Special Coordinator for international assistance, arrived in the country in December 1999.

IV. SITUATION OF HUMAN RIGHTS AND INTERNATIONAL HUMANITARIAN LAW

23. In accordance with the mandate of the Office in Colombia, this report refers both to human rights violations and to breaches of international humanitarian law. Acts and omissions against rights embodied in international human rights instruments are violations of such instruments when they are committed by public servants or private individuals acting at the instigation, with the consent or with the toleration of the authorities.

24. In the context of Colombia's internal armed conflict, breaches of international humanitarian law, committed solely by direct participants in the hostilities, are acts or omissions that are contrary to article 3 common to the four Geneva Conventions, to their Protocol II Additional of 1977 and to customary law. In Colombia, international humanitarian law applies to the State, the guerrillas and paramilitary groups.

25. For the purposes of this report acts that can be attributed to the latter also constitute human rights violations which, by act or omission, therefore also entail the international responsibility of the State. This consideration is based on the fact that these groups have the support, acquiescence or toleration of State officials and benefit from the lack of an effective response by the State (see chap. IV E.2, paras. 108-111).

26. In Colombia, the main armed guerrilla groups opposed to the State are the Revolutionary Armed Forces of Colombia (FARC), the Camilista Union-National Liberation Army (UC-ELN) and the Patriotic Liberation Army (EPL). There are also paramilitary groups, which call themselves "self-defence groups" and claim to be clearly against the guerrillas. Most of them identify themselves publicly and collectively as "United Self-Defence Groups of Colombia" (AUC) and their strongest and best-known unit is the "Córdoba and Urabá Peasant Self-Defence Groups" (ACCU).

A. Civil and political rights

1. Right to life

27. The right to life has been one of the most affected. The violation of this right, particularly, through extrajudicial executions, took the form of the execution of a single victim and the form of massacres (three or more persons executed in a single incident or during incidents related by responsibility, place and time). The motives for some were clearly political, while others were the result of "social cleansing"; however, many of them were carried out merely in order to intimidate third persons or cause forced displacement. In addition to national political figures, the victims of extrajudicial executions included university professors and students, trade union leaders, human rights advocates, indigenous dignitaries, members of religious orders, leaders of displaced communities, municipal officials, journalists and many peasants and workers. In many cases, no one claimed responsibility for the deaths and, to date, most judicial and disciplinary investigations have not been able to determine responsibility for the planning and commission of such acts.

28. During the period covered by this report, the number and frequency of massacres increased, they were characterized by their repetitive nature, persistence over time and the extreme cruelty used against the victims. The Office of the People's Advocate has recorded a nearly 50 per cent increase in massacres (402) and a 36 per cent increase in the total number of victims (1,836) in 1999, compared to the same period from January to 21 December 1998. Many of the collective executions were preceded by the announcement by the paramilitaries of the creation of new "war fronts", the dissemination of general threats and the setting of urgent deadlines for leaving certain localities. Some regions where there were repeated massacres and up to nine collective executions in a two-month period were particularly afflicted. This new pattern of proliferation, repetitiveness and cruelty was apparent mainly in Catatumbo and in the north of the Valle del Cauca, but areas such as Magdalena Medio, Chocoan and Antioquian Uraba, the Montes de Maria and the Nudo de Paramillo were also affected.

29. Most of the massacres were committed by members of paramilitary groups which, on many occasions, publicly admitted their responsibility. According to the Office of the People's Advocate, 152 massacres attributed to paramilitary and/or self-defence groups were recorded between January and 21 December 1999. These massacres were often associated with other acts of violence, such as enforced disappearances, torture, mutilation and large-scale displacements.

30. According to this same source, six massacres which were attributed directly to members of the security forces and which caused 20 victims, were also recorded during this period. The Office has received reports indicating that members of the military forces participate directly in the organization of new paramilitary groups and in disseminating threats. In some cases, victims recognized members of the military forces who formed part of the paramilitary groups that committed the massacres. The security forces also failed to take action, and this undoubtedly enabled the paramilitary groups to achieve their exterminating objectives. This is clear from several of the judicial and disciplinary investigations being conducted against members of these forces for different types of omission and for direct action, by forming part of paramilitary groups, committing murder, conspiring to break the law, etc. (see chap. IV.E.2, paras. 108-111).

31. In 1999, many death threats were also recorded against the same sectors that were victims of extrajudicial executions. In some cases, these threats were made by members of paramilitary groups, but responsibility for others is still unclear. Many of those threatened had to abandon their homes and places of work, while others chose to leave the country, in some cases with the help of the authorities (see chap. IV.E.4, paras. 119-125).

32. In addition to direct threats, another factor that is helping to polarize the population are the public statements made by some army officers accusing humanitarian agencies, grass-roots organizations, judicial and monitoring bodies and human rights defence groups of alleged partiality or sympathy towards the guerrillas. Specific examples include the accusations against the Minga NGOs made by General Alberto Bravo Silva, the statements by General Ramirez on the Attorney-General's Office, the Procurator-General's Office and national and international organizations. Such statements create a climate conducive to threatening warnings.

33. The State's efforts to guarantee the right to life and provide protection to the population have been extremely inadequate. In the context of prevention, the Office and other agencies stressed their concern on various occasions, and drew attention to the risks that some population

groups face as a result of intimidation and threats of massacre and to the urgent need to adopt immediate measures. The authorities have nonetheless taken few, if any, preventive measures. In the case of Gabarra (Norte de Santander), for example, the lack of State action to prevent new massacres was particularly evident, despite many warnings.

2. Right to personal integrity

34. Torture and cruel, inhuman and degrading treatment continued to be under-reported, particularly as they have often been linked to other violations such as those of the right to life and liberty of person. Members of paramilitary groups frequently use torture and, in almost all cases, it preceded extrajudicial execution. People who are taken prisoner by paramilitary groups are generally tortured, not during questioning, but for the purpose of punishment, coercion or intimidation. In this way, torture has become a systematic and habitual way of instilling terror.

35. While reports of torture by members of the security forces have declined in recent years, the ill-treatment inflicted in military and police establishments continues to cause concern. Prisoners in such establishments, and even members of the security forces subject to disciplinary measures have been the victims of such treatment. In Ponedera (Atlántico), two recruits died after being kept for two days in a container, in which they had been locked up by their captain.

36. Cruel, inhuman and degrading treatment also continued to occur in prison establishments. Detainees and convicted prisoners in penitentiaries and prisons suffer not only from overcrowding and the most deplorable sanitary conditions, but also from repeated abuse and the use of unnecessary force by the public servants who guard them. During the year, the prison situation led to constant riots and protests, which were supported by the prisoners' families and caused the taking of hostages and prisoners, as well as institutional crises. According to the Office of the People's Advocate, 169 detainees died violent deaths in the country's prisons (76 in Bogotá Model Prison) between January and 10 December. These cases highlight the uselessness or lack of adequate measures taken by the authorities responsible for preventing them.

37. Another repeated violation of the right to personal integrity was the excessive use of force by State agents, particularly when they were arresting offenders in flagrante, putting down disturbances or dealing with popular protests. In this respect, the uncontrolled and unrestrained use of lethal weapons to deal with prison riots or to disperse people taking part in stoppages, strikes and street protests is increasingly disproportionate and dangerous (see chap. IV.B.2, paras. 62-65).

3. Right to liberty and security of person

38. One of the most serious violations was enforced disappearance, in connection with which there was very little basic information in most cases and whose borders with kidnapping and other criminal acts are blurred. In several cases, it was associated with situations of extrajudicial executions or massacres, in which people were reported to have disappeared, although no one assumed responsibility for their arrest. Furthermore, since such situations cause population

displacement and make it difficult to return to the site to investigate and obtain relevant additional information, the disappearance of such persons is based on incidents that constitute reasonable indications, with significant limitations on how such violations are to be characterized in legal terms.

39. In some cases, the victims' bodies were found shortly after they were detained, thus proving that they had been executed extrajudicially. Another method was the setting up of roadblocks by paramilitary groups which, with list in hand, detained and took away people who were important locally or simply citizens whom they accused of being militia or guerrillas or of sympathizing with the insurgency. In this case, it was not always possible to determine the fate of those who disappeared. In other cases, it was difficult to prove that there had been an enforced disappearance owing to the total lack of information on who had committed the act. In such cases, fears of disappearance were the result of the identity of the person and his or her membership of a vulnerable group or of the fact that there had been threats against the person.

40. Unlawful or arbitrary arrests were usually carried out by members of the military forces who conducted search and inspection operations in areas where guerrilla attacks had occurred. During such operations, they repeatedly arrested local inhabitants and occasional visitors. These persons, who were arrested without a warrant, were kept imprisoned without regard for the requirements and conditions provided for by law. In some military installations, the clandestine imprisonment of captured members of guerrilla groups and deserters from the rebel forces for indefinite periods has also become a common means of obtaining information from them or getting them to cooperate. Such imprisonment, which is illegal, places the victims at risk of suffering torture or ill-treatment.

41. Unlawful or arbitrary detention also took place when members of the police carried out what are known in Colombia as "temporary arrests". Even though the Constitution prohibits detention without a written arrest warrant issued by a competent judicial authority, except in cases in flagrante delicto, the rulings of the Constitutional Court have enabled the administrative authorities to hold persons who are neither in flagrante nor have any legal arrest warrant against them in pre-trial detention for up to 12 hours for verification purposes (judgement No. C-24 of 1994). In practice, the police thus enjoy discretionary and all-embracing powers to arrest persons in public places or places open to the public. Most victims of this measure, known as a round-up or a raid, are members of the poorest and least privileged sectors of the population (see E/CN.4/1998/8, para. 54).

42. The right to liberty of person was also violated in all cases in which a security measure consisting in pre-trial detention was imposed on defendants without any justification. Colombian criminal legislation does not recognize the exceptional nature of pre-trial detention, since it may be ordered without taking into consideration the seriousness of the offence or the existence of weighty reasons for fearing that the accused may avoid prosecution or obstruct the investigation. It should be noted that pre-trial detention is applicable to all offences within the jurisdiction of the specialized criminal circuit courts (see chap. V.B, paras. 135-145).

43. Lastly, liberty of person was violated by the restriction of the right to habeas corpus. As the High Commissioner mentioned in her first report on Colombia (E/CN.4/1998/16, para. 133), this restriction occurs when criminal legislation is applied which stipulates that "petitions

regarding the liberty of a person who is legally deprived of it" must be filed as part of the proceedings. Accordingly, the petition for habeas corpus becomes inadmissible for persons subject to pre-trial detention, preventing them from exercising their right to challenge the legality of their detention before a judicial authority, other than the one who ordered it, and who is able to order their release, if appropriate, within a short period. In such cases, an appeal before execution of judgement is filed which is not subject to the specific terms of the petition for habeas corpus.

4. Right to freedom of movement and residence

44. During the period covered by this report, the main violations of the right to freedom of movement and residence were forced displacements and restrictions on freedom of movement within the country. Forced internal displacement has continued to be one of the most serious violations of these rights; the situation is described in section E.3 of chapter IV (paras. 112-118).

45. Restrictions of free movement within the country were the result of unlawful roadblocks set up by members of paramilitary groups in the areas they control. In some cases, these roadblocks were set up in order to subject the civilian population to search and identification measures. In others, their sole purpose was to facilitate the arrest of local inhabitants who were then subjected to enforced disappearance and extrajudicial execution. Freedom of movement was also affected by paramilitary group actions during which the civilian population was forced to concentrate in certain places in order to ensure its presence for purposes of propaganda or intimidation.

46. Violations of the right to freedom of movement also include the unlawful or arbitrary measures that members of the armed forces adopted in some rural districts, without any legitimate pretext of public order or national security, to prevent persons and vehicles from crossing through certain areas or to suspend the transport of supplies and fuel. This happened in the departments of El Choco and Córdoba and mainly affected the indigenous communities.

5. Due process

47. The problem of due process cannot be dissociated from that of the high rates of impunity in Colombia, which are even more alarming in cases of human rights violations and breaches of international humanitarian law. The problem of impunity is linked to structural factors in the administration of justice, but also to the magnitude of the internal armed conflict.

48. The worsening of the conflict has resulted in a larger number of cases to be investigated, the exacerbation of the problem of security and difficulties in access to justice, particularly in the regions or areas controlled by some of the parties to the armed conflict. In many regions of the country, access to justice is limited by a variety of factors, some linked to the armed conflict. They include:

(a) Regions where officials from the Office of the Attorney-General and judicial authorities are present, but their action is hampered or extremely limited owing to the control exercised by armed groups in the area;

(b) Regions where the State is not present owing to the armed conflict and, consequently, there is no possible access to any competent judicial authority; and

(c) The "demilitarized zone", which the judicial authorities had to abandon and where the population therefore has to apply to authorities in neighbouring areas or, in practice, submit to the authority imposed by the FARC (see chap. IV.E.1, paras. 99-107).

49. The Human Rights Unit of the Attorney-General's Office is responsible for investigating the most serious human rights violations with a staff of only 25 prosecutors and a Technical Investigation Unit (CTI). Threats and intimidation against prosecutors have caused them to resign or transfer to other units. This has reduced the level of experience accumulated since the Unit's creation and caused a procedural overload for those with greater experience.

50. In addition, there is a lack of adequate protection for judicial officials in the performance of their functions; they are unable to execute arrest warrants or to collect evidence and carry out operations to obtain it. This is the result both of security problems and of a lack of resources. Security is affected by the following three factors:

(a) Difficulties of access to high-risk areas owing to the presence of parties to the armed conflict outside the law;

(b) The threats or intimidation experienced by local officials and authorities in responding to the demands of the situation in their territory; and

(c) Threats to witnesses and victims. The third factor is also the result of the fact that many people lack confidence in their institutions. Consequently, many victims or witnesses choose not to file complaints or not to collaborate in investigations, thereby exacerbating the problem of impunity.

Account should also be taken of situations due to the lack of cooperation by the security forces.

51. The Office has recorded several cases in which CTI investigators and prosecutors who were victims of death threats, hostage-taking and extrajudicial execution, particularly in the department of Antioquia, in the "demilitarized zone" and nationally, as shown by the attack against several CTI investigators in Bogotá in November. It appears that neither the Government nor government agencies have made this problem a priority. In practice, this means that insufficient resources have been earmarked to guarantee effective judicial action and an adequate framework of protection.

52. The problem of impunity is also linked to the high level of corruption in the Colombian State, which is recognized by the authorities themselves as one of the country's most serious problems. One example is disregard for the rules of the legal profession governing the entry and promotion of officials solely on the basis of merit.

53. The administration of justice continues to be undermined by chronic delays, which, in the criminal law area, have helped make prison overcrowding even worse. The Office of the People's Advocate is responsible for providing legal aid services. However, the number of

public defence counsels is totally inadequate compared to the enormous need for their services, which are provided under conditions that do not always guarantee their effectiveness. According to the Office of the People's Advocate, more than 50 per cent of the prison population depends on this service. This calls into question the effectiveness and quality of defence.

54. The reforms introduced in the system of "regional justice", now known as "specialized justice", continue to place serious restrictions on judicial guarantees (see chap. V.B, paras. 135-145). The Office has received many requests from persons who are being prosecuted or have been convicted and who refer to irregularities in their proceedings under this system and are demanding that their cases should be re-examined. However, the Office has been unable to monitor such situations extensively.

55. This year, the Office must repeat its concern about the functioning of the military criminal justice system, as it violates a number of international principles, such as those of independence, impartiality, equality and right to review by a higher court. During the year, the Constitutional Court's decision on the restricted scope of the jurisdiction of members of the security forces was still not applied (see chap. V.C, paras. 146-150).

B. Economic, social and cultural rights

56. In 1999, the Office gave priority to monitoring the rights to education and to work. The former, because it is one of the rights that can have the greatest impact on the building of a culture of peace and human rights, and the latter, in view of the particular seriousness of the trade union movement's situation as a result of violations of civil and political rights. The monitoring of the other rights was carried out in coordination with other specialized bodies of the United Nations system.

57. The Government implemented an economic structural adjustment policy in 1999. Colombia is undergoing its worst economic recession in more than 60 years. An economic decline of –3.5 per cent in the GDP is forecast for 1999 and the rate of urban unemployment is at present the highest in its history. The peso has suffered a significant devaluation, although inflation has decreased. Moreover, difficulties persist in the fight against drug trafficking and corruption. This year, one of the most significant cases of corruption was in Foncolpuertos, the Social Security Institute. Strategies to combat corruption have not produced effective results.

58. According to the 1999 Human Development Report for Colombia (IDHC), prepared by UNDP and the National Planning Department (DNP), Colombia is in 57th place among 174 nations; in other words it is one of the countries with an average human development record, with a drop of four points compared to the previous year. The problems that stand in the way of achieving greater development are: violence, which involves men in particular, and unequal income distribution. The State's efforts to curb violence and overcome inequality have not been sufficient to achieve substantial improvements in the human development index. There are also major social, demographic and economic gaps between departments.

1. Right to education

59. With regard to the general situation of education, according to UNDP's IDHC the country stopped combating illiteracy too soon, especially in the rural sector. For example, whereas the illiteracy rate in Bogotá is 2 per cent, the figure is 20 per cent in Córdoba, and 18 per cent in El Chocó and, according to the Advisory Office for Human Rights and Displacement (CODHES), 10 per cent of the displaced population is illiterate.

60. Higher education and pre-school education are the privilege of higher-income households. Although progress has been made in primary education, particularly with the implementation of the New School model in rural areas, this level of education is not universal. The greatest inequality and exclusion persist in secondary education. The marked increase in public and private spending on education has not been reflected in an efficient distribution of resources and there are obvious differences between regions. A study conducted by the Universidad de los Andes states that, with regard to access to education, there has been a tendency to help medium-income and high-income families rather than poorer families. In 1999, one of the direct effects of the economic crisis on education has been a shift of quotas in State schools that were formerly intended for less privileged families to medium-income population sectors. All these elements indicate that public education has not provided the increased opportunities for the poorest people that are necessary in order to increase economic development, build a more equitable society and reduce poverty.[1]

61. In the framework of the United Nations Decade for Human Rights Education (1995-2004), the Office encouraged the preparation of a national plan for human rights education, but the result was unsatisfactory. Furthermore, the teaching of human rights and international humanitarian law, adapted to each educational level, has not been incorporated into the curriculum as a compulsory subject. It should also be mentioned that members of the security forces still do not receive systematic training on this subject. Efforts to disseminate information on human rights through the official media have also been insufficient.

2. Right to work and freedom of association

62. In addition to the high unemployment rate throughout the country, there has been an increase in self-employment, in both urban and rural areas. This is an indication of the deterioration in the quality of employment and the growth of the informal sector. Both urban and rural unemployment particularly affect young people and women with little education. The Office is concerned about this situation, which leads young people to join the ranks of illegal armed groups, become hired killers or grow illegal crops.

63. During the year, there have been several demonstrations reflecting social and trade union unrest, mainly by workers in the health and education sectors, peasant organizations and transport companies. In many cases, the authorities reacted to these demonstrations in a hostile manner and restricted the right to protest - one example being the strike called by the trade unions for 31 August. There were reports that more than 300 persons had been arrested, including many minors, and that there had been excessive use of force and ill-treatment in police

premises; the Office also received complaints that six people had disappeared in Bogotá and three had been killed in the La Divisa district of Medellín, in circumstances that have still not been clarified.

64. The exercise of freedom of association has been discouraged owing to the violence used against workers (see chap. IV.E.4, para. 123). According to the Human Rights Office of the Ministry of Labour, 18 trade unionists died in 1999, two disappeared and a large number received death threats. The Office regrets that the Interinstitutional Commission for Workers' Rights created in 1997 has only met once in 1999 and has not been used sufficiently to tackle the various problems and strategies for action on workers' rights.

65. Regarding child labour, the Office welcomes the Colombian State's ratification this year of ILO Convention No. 182 on the worst forms of child labour. It also welcomes the Constitutional Court's decisions in judgement No. T-568 of 10 August 1999, which draws the Government's attention to its duty to comply at the domestic level with the commitments it freely assumed at the international level, above all those related to the ILO. Accordingly, the Office stresses that domestic legislation has not been brought into line with ILO Convention No. 87 (Freedom of Association and Protection of the Right to Organise Convention) and No. 98 (Right to Organise and Collective Bargaining Convention), particularly with regard to the regulation of the right to strike in the public services.

3. Other rights: health and housing

66. The right to health is still not enjoyed by all, even though there has been an increase in public spending (nearly 8 per cent of GDP) and there is greater coverage. The health system suffers from problems of inefficiency in the allocation of resources and evasion, corruption or delay in payments and amounts owed by municipalities and health agencies. This has meant that major hospitals have been brought to a standstill or to the brink of one. According to the Office of the Procurator-General,[2] at least $10 million that should have been assigned to health care for the poorest sector were squandered by officials at the highest central and local levels and by directors of health administration agencies. Health care for the displaced population, especially mental health care, is inadequate. According to CODHES, only 34 per cent of displaced households have access to health services.

67. With regard to the right to housing, one of the major problems was caused by the earthquake in the coffee-growing area where thousands of people lost their homes, and even today their housing situation continues to be extremely precarious. There is also the dramatic situation of more than 60,000 people who have debts with the mortgage credit system (Unidad de Poder Adquisitivo Constante - UPAC); owing to a capitalization of interest system, they have not been able to pay their instalments and been obliged to give up their homes. The Constitutional Court has recognized the unfairness of this situation and the State has been obliged to change it. There is still a serious problem with the displaced population's right to housing. According to CODHES, 46 per cent of displaced persons are crowded together in rooms or in slum dwellings in squatter and high-risk areas.

C. Particularly vulnerable groups

1. Women

68. Colombia has a broad legal framework for the protection of women's rights. Nevertheless, the situation of women in Colombia continues to be difficult, in particular, owing to the effects of violence and the armed conflict. In addition, the considerable deterioration of the economic situation primarily affects the female population. In this respect, it should be recalled that the Colombian State is obliged to adopt legislative, administrative and other measures to reduce the impact of this situation on women.

69. Education is one of the areas where most progress has been made in fostering equality between women and men in Colombia. The rate of illiteracy among women declined significantly compared to illiteracy among men and the trend towards more women enrolling at various educational levels was maintained.

70. The situation of women on the labour market has deteriorated owing to the economic crisis and women still earn 28 per cent less than men. Women rural workers are those who are most affected by wage discrimination and unemployment. Moreover, the situation of rural women continues to grow worse as women are among the main victims of the armed conflict and forced displacement. According to CODHES, 53 per cent of displaced persons are women and girls and 32 per cent of displaced families are households headed by women. As regards political participation, the figures indicate that women continue to lag behind men in positions of authority and decision-making (see para. 134).

71. Levels of domestic and sexual violence against women continue to be alarming, even though a large number of incidents are not reported. The State's response has been limited to increasing penalties for offences against sexual freedom and human dignity, but it has not taken initiatives to eliminate impunity in the administration of justice.

2. Children

72. Children account for 41.5 per cent of Colombia's total population. According to the figures of the Office of the People's Advocate on the status of the rights of Colombian children in 1998, 6.5 million live in poverty, 1,137,500 in extreme poverty and 30,000 in the streets. Forty-seven per cent of Colombian children are ill-treated. Every year, 4,380 children die violent deaths. More than 2.5 million work under high-risk conditions, 80 per cent of them in the informal sector, and only 3 per cent of the children who work attend school.

73. According to CODHES, minors account for 70 per cent of the displaced population and the Office of the People's Advocate indicates that only 15 per cent of them have access to education: the drop-out rate is high and discrimination is common. Another cause for concern are CODHES data indicating that 77 per cent of the children who were enrolled in the formal education system in areas from which the inhabitants were displaced dropped out of school after displacement. Moreover, the absence of any special programmes for children who are demobilized from the ranks of the parties to the armed conflict is also a source of concern.

74. Sexual abuse is prevalent in Colombia, particularly in respect of children of 5 to 14 years of age. In 70 to 80 per cent of cases, the children know the offenders. There continue to be irregularities in the treatment of juvenile delinquents or those who are in the custody of the Colombian Family Welfare Institute (ICBF); they include taking children to police stations and sexual abuse in centres for their protection.

3. Ethnic minorities

75. Although the Constitution recognizes the rights of the indigenous and Afro-Colombian communities and despite repeated appeals to the parties to the armed conflict to respect their autonomy and exclude them from the conflict, the situation of these communities is not satisfactory. In the Human Development Report for Colombia, 1999 (IDHC), it is estimated that 80 per cent of the Afro-Colombian and indigenous popuiation live in conditions of extreme poverty, that 74 per cent receive wages below the legal minimum and that their municipalities have the highest rates of poverty and unmet basic needs. In such areas, the indices of quality of life and human development are below national standards and life expectancy is 20 per cent lower than the national average. The implementation of policies and programmes designed specifically for these communities in order to guarantee the exercise of their right to autonomy and cultural identity has been inadequate.

76. Many indigenous and Afro-Colombian leaders have been killed or have disappeared and a large number of people from these communities have been forcibly displaced. The parties to the armed conflict have exercised an alarming level of pressure on the Emberá-Katio in the regions of Alto Sinú (Córdoba) and Jurado (Chocó), on the Uwa's in the north of Boyacá and on the Afro-Colombian communities in the Chocoan Urabá, lower and middle Atrato (Chocó), the Montes de María and the south of Bolívar. Moreover, those who defend indigenous rights have been persecuted and sometimes killed, examples being Lucindo Domicó, a victim of the paramilitary groups, and the United States advocates of the indigenous peoples who were victims of the FARC. In many cases and despite the Office's requests, the Colombian State has been incapable of guaranteeing the security and protection of the leaders, people and advocates of these communities. The Office has also received reports from indigenous organizations that the FARC are forcibly recruiting indigenous people in areas such as the Sierra Nevada de Santa Marta, Chocó, Putumayo, Caquetá, Guainía and Vaupés, in obvious disregard for their autonomy, culture and ancestral values.

77. With regard to territorial rights, the Embera-Katio and Uwa's communities have rejected the concession of environmental licences to both the Urrá and OXY de Colombia companies , in the first case, to fill the Urrá dam, located in Tierralta (Córdoba) and, in the second, to exploit Pozo Gibraltar in Cubará (Boyacá). The indigenous people allege the violation of their right to prior consultation in respect of projects that affect them, as provided for in ILO Convention No. 169. The Committee on the Elimination of Racial Discrimination expressed its concern in this regard, as well as about gaps in legislation on discrimination against these communities (see the report of the Committee on its two regular sessions in 1999, A/54/18, paras. 454-481).

D. Main breaches of international humanitarian law

1. Murders and threats

78. Both guerrilla and paramilitary groups were characterized by their attacks on people accused of being collaborators, supporters or informers of the other side, whom they murdered or executed after having detained them.

79. The FARC, in particular, have publicly justified murdering people in their power, alleging that they were linked to paramilitary groups or military intelligence. In the "demilitarized zone", the FARC acknowledged that they had killed at least 19 people whom they had first detained. The FARC murder of three United States indigenous rights advocates under the protection of the U'wa caused great indignation. During 1999, moreover, according to the Federation of Municipalities, five mayors were killed by the guerrillas, four by the FARC and one by the ELN.

80. In other cases, the guerrillas, especially the FARC, killed members of the military and national police forces after they had surrendered or been captured during armed conflicts or while they were on leave or visiting their families. In the case of the fighting in Gutiérrez (Cundinamarca), autopsies of dead soldiers indicate that several were shot at point-blank range.

81. Since the El Diamante (Córdoba) massacre in late 1998, the guerrillas, particularly the FARC, have increasingly resorted to mass murders, thus contributing to the worsening of the armed conflict. According to the Office of the People's Advocate, between January and 21 December 1999 various guerrilla groups committed 67 murders involving more than three persons at the same time; the guerrillas were responsible for 16.6 per cent of them.

82. The paramilitary groups have killed the most civilians and committed the largest number of these murders. The Office of the People's Advocate has recorded that these groups were responsible for 49.4 per cent of the 700 murders committed between January and September 1999. The mass murders of defenceless civilians constitute their main activity and military strategy. These groups also resorted to murdering individuals in the downtown areas of the municipalities where they are in authority. In the few direct confrontations that have taken place between paramilitary groups and guerrillas, injured and incapacitated persons have been murdered.

83. According to the Office of the People's Advocate, and as indicated in paragraph 30, six murders involving more than three persons attributed to members of the security forces were recorded. A large number of death threats directed against civilians by the combatants, such as those referred to in this chapter, section A.1 (paras. 27-33) and section E.4 (paras. 119-125) were also recorded in 1999.

2. Torture and ill-treatment

84. Ill-treatment, torture or mutilation often preceded the murder of people in the hands of paramilitary groups or the guerrillas. The security forces reported to the Office many cases of

soldiers or police agents detained by the guerrillas who were tortured before being killed. The Office has been informed of cases of members of the army who ill-treated civilians during military operations.

3. Hostage-taking

85. The guerrilla groups have continued the practice of large-scale hostage-taking. In most cases, a ransom was demanded, but in others the purpose was to exert political pressure. The ELN carried out large-scale kidnappings in 1999, the best known of which included those of the passengers of the Avianca flight between Bucaramanga and Bogotá and of the parishioners of the La María Church in Cali.

86. On 31 August, the FARC occupied the energy plant of the Anchicayá Hydroelectric Station in Valle del Cauca and held about 120 civilians. New methods, such as acts of piracy in the air and at sea, have helped increase the climate of insecurity throughout the country, adding to the already notorious kidnappings at roadblocks on Colombian roads.

87. The hostages are members of every social class and the phenomenon has affected children and the elderly, foreigners, politicians and members of religious orders, among them, the bishop of Tibú (Norte de Santander). Both the FARC and the ELN have kidnapped journalists to exert pressure for the publication of press releases or as a means of censoring their professional activities.

88. The inhumanity of the practice of hostage-taking is made even worse by the length of time people remain deprived of their freedom, which may be months or even more than a year, and in some cases it ends only with the victim's death. The Fundación País Libre reports that between January and November 1999, 1,531 persons were abducted by various guerrilla groups; this represents 56 per cent of all kidnappings in Colombia. In addition, over the same period, paramilitary groups abducted 85 persons for political motives and for ransom.

89. The Office has received complaints and evidence from family members that the FARC are using the "demilitarized zone" to negotiate the release of hostages and keep those they kidnap in their power. Kidnappings have also been carried out in this zone on the pretext of conducting "investigations" into alleged membership of paramilitary groups.

4. Recruitment of children and their participation in the hostilities

90. The guerrilla groups have continued enlisting children under 15 years of age. The FARC have been recruiting children from the age of 12 upward in the "demilitarized zone". The Office itself was able to observe the presence of children in uniform and bearing arms in the ranks of the various guerrilla groups in different parts of the country. Recruitment is by persuasion or force. In addition to being used as combatants, children are used as informers, guides and messengers. Confrontations between the guerrillas and the armed forces have revealed that children participate in the hostilities, as in the fighting of 10 July in the towns of Puerto Lleras and Puerto Rico (Meta), where the corpses of several child guerrillas were found.

5. Forced displacement

91. The forced displacement of the civilian population by the parties to the armed conflict increased during the year, becoming one of the main military strategies adopted by both the paramilitary groups and the guerrillas. The problem of forced displacement is examined in detail in section E.3 (paras. 112-118) of this chapter.

6. Attacks on the civilian population and indiscriminate attacks

92. The lack of respect for the humanitarian standards that protect the civilian population against any type of attack was evident in the armed clashes that occurred during 1999. The paramilitary groups have directed their attacks specifically against civilians and the guerrillas have violated the principle of differentiation and proportionality, thereby endangering the population. As a result, civilians have died in the crossfire with the security forces and houses have been destroyed following indiscriminate guerrilla raids. The use of home-made weapons that are difficult to aim, such as the gas cylinders used by the guerrillas, has had the same effect during clashes between these groups and many civilians have been hit and killed by such devices in their own homes.

93. The Office has also received evidence of civilian deaths and injuries caused by projectiles fired from military aircraft during clashes.

7. Terrorist acts

94. The FARC and the ELN guerrillas have at times resorted to terrorist acts by setting off explosives in densely populated urban areas. On 21 May, three explosive charges were deposited and activated by the FARC in the downtown area of Florencia (Caquetá). As a result, 17 persons, including 4 children, were injured. The guerrillas claimed responsibility for certain terrorist acts and others were attributed to them. Since November, moreover, serious bombing attacks which may not be due to the armed conflict have been recorded in the country's main cities.

8. Violations of the protection of medical duties and attacks on medical units and transport

95. Attempts on the life and personal integrity of health personnel are serious and frequent violations that deprive entire segments of the population of access to health services. The armed groups have not respected the protection of health units and transport, killing the injured being treated in clinics and attacking ambulances carrying medical personnel. One example was the FARC attack on an ambulance carrying injured persons in San Carlos (Antioquia). The guerrillas have also looted pharmacies, hospitals and clinics and abducted medical personnel, one example being the kidnapping carried out by the FARC in Soatá (Boyacá) in February 1999.

96. Paramilitary groups have threatened and even murdered medical personnel accused of having assisted guerrillas. In September, a leaflet signed by the United Self-Defence Groups of Colombia (AUC) was distributed in El Líbano (Tolima), declaring several health workers in the region to be "military objectives". On other occasions, paramilitary groups attacked ambulances and took away the injured who were being transported to hospital.

97. There have also been cases in which members of the security forces ignored provisions protecting medical duties by forcing their way into hospitals to search for injured guerrillas or accusing aid organizations of assisting injured combatants.

9. Attacks on civilian property

98. Attacks were carried out in 1999 by guerrilla and paramilitary groups which fail to differentiate between civilian property and military targets and ignore the principle of proportionality, thereby causing considerable damage to houses, churches and other civilian property. Looting by various groups was also recorded.

E. Situations of special concern

1. Evolution of the armed conflict

99. The fact that the human rights situation in Colombia cannot be analysed without reference to the evolution of the armed conflict and its impact on the fundamental rights of individuals is recognized in the mandate of the Office. Moreover, the agenda of the peace talks between the Government and the FARC fails to accord priority to the question of human rights and international humanitarian law, notwithstanding society's demand that it should be discussed before anything else. The current cycle, during which the armed conflict is being intensified, has been going on for the last three years, and is characterized by the deployment of and increase in the FARC's operational capacity to mount large-scale attacks against the army, by the decline in the ELN's operational capacity, against which the main military effort of the paramilitary groups is directed, and by constant retaliatory activities by paramilitary groups throughout the country, focusing almost exclusively on the civilian population.

100. Apart from the violations of international humanitarian law described above, the worsening of the conflict is reflected in activities that are a source of deep concern because of their humanitarian implications for the civilian population and the damage caused to the environment.

101. For example, paramilitary groups have used threats or set up roadblocks to restrict the transit of food and other goods to zones where the guerrillas are present. In April, the AUC announced that the transport of provisions and materials to the "demilitarized zone" was henceforth prohibited. As a result, carriers who transported goods to this zone were victims of threats, extortion and murder and the entry of foodstuffs declined. In the town of Juradó (Chocó), the Office was able to observe how military forces controlled the amount of goods and provisions that inhabitants of the region were able to take to their communities, the ones most affected being the indigenous and Afro-Colombian communities.

102. The guerrillas, for their part, have continued their attacks against oil pipelines, thereby causing major oil spills that affect crops, water wells and the general environment. In addition, the ELN launched a series of attacks towards the end of the year against electricity pylons in various regions of the country; those who suffered the most were the poorest segments of the population which were deprived of electricity, the cost of which rose considerably.

103. During the period covered by this report, the FARC have suffered several very serious setbacks at the hands of the military forces, although this has not reduced this rebel group's offensive power.

104. The very real danger that the fighting will continue in a context of escalating violence and the steady deterioration of the humanitarian situation, as has been the case this year, could have a high cost in terms of lives and warrants unequivocal moral repudiation. Thus, if they succeed, President Pastrana's attempts to get talks under way in order to reach peace agreements with the FARC and the ELN could lead to a partial improvement in the situation afflicting the country, even though it might not solve all the human rights problems.

105. The nature of paramilitary activities has clearly confirmed that they are intended to undermine and violate international humanitarian law. Although, in their communications, the paramilitary groups attempt to justify their activities as actions against the guerrillas, in practice they are directed specifically against civilian non-combatants.

The "demilitarized zone"

106. The demilitarized zone has been used by the Government and the FARC to ensure the continuation of peace talks. However, owing to the withdrawal of the security forces and of the prosecutors who worked in the zone, there is an obvious lack of guarantees and an absence of effective means enabling the population to exercise its rights. In the absence of various State institutions, the FARC automatically became the main authority. The most serious acts that exemplify this situation are described in other sections of this report and include the murder of civilians, hostage-taking and the recruitment of children. They also include restrictions on the exercise of various rights, such as freedom of movement, religious freedom and freedom of expression.

107. Although the FARC recognized the authority of the mayors, they have failed to respect it and called for the resignation of the mayors of La Macarena and Vistahermosa, the latter died in circumstances that have still not been clarified. In San Vicente del Caguán, they forced the prosecutor to resign, and in each municipality they placed one of their commanders in charge of security in the downtown area. Armed guerrillas, in uniform and in civilian clothing, patrol the streets, conduct house searches, arrest people and control access to the area by land and river, as well as airports. The FARC have issued "harmonious relations" regulations to be complied with by the local population and have imposed penalties on anyone who violates them. In "complaints offices", they deal with offences and even domestic disputes and immediately decide what penalties are to be imposed; these range from fines or forced labour to the death penalty. The FARC have also imposed taxes to finance road construction and arrogated to

themselves the right to monitor the use of municipal resources. The advantages they obtained by converting the "demilitarized zone" to military use enable them to recruit and concentrate personnel there and also to train and give them ideological education.

2. Evolution of paramilitarism

108. As the High Commissioner has already stated in previous reports, the Colombian State bears undeniable historical responsibility for the origin and development of paramilitarism, which was protected by law from 1965 to 1989. Although the so-called "self-defence groups" were then declared unconstitutional, 10 years have passed and they have not been dismantled. In the same historical context, the military forces bear special responsibility because they were in charge of promoting, selecting, organizing, training, arming and providing logistical support to the "self-defence groups" during the long period when they were protected by law in the general framework of support for the security forces in their struggle against the guerrillas.

109. The same trend was also apparent in Extraordinary Decree No. 356 of 1994, which established the Special Vigilante and Private Security Services, better known as the "Convivir" associations. In 1997 and 1998, the Office observed how the proliferation of these organizations in various regions of the country was organized and encouraged, without any adequate means of monitoring and supervision. Well-known members of paramilitary groups became leaders of some of these associations; consequently, the Office strongly advised the Colombian State that it was inappropriate to maintain them.

110. The fact that most serious human rights violations are committed by paramilitary groups should lead the Government to make it a priority to combat them effectively. The continued existence of direct links between some members of the security forces and paramilitary groups, revealed by disciplinary and judicial investigations, is a cause of great concern. Examples in the course of 1999 included cases relating to the activities of the dismantled army intelligence Brigade XX and the incidents occurring during the massacre of 29 May in Tibú (Norte de Santander). In some regions of the country, these links were strengthened and the authorities responsible for penalizing them failed to take decisive action. The paramilitary groups also continue to maintain links with and enjoy the support of some sectors of the local and regional political and economic elite. The paramilitary organizations have expanded their recruitment activities to embrace persons who desert the guerrillas and who operate not only as combatants, but also as informers whose accusations serve as a basis for attacks on the civilian population.

111. In this context, the absence or limited scope of the measures frequently announced by the Colombian authorities, such as the "search corps" that never materialized, once again confirms the continuing ambivalence in the way the State assumes responsibility for combating the so-called "self-defence" groups. Indeed, the Office has heard senior army officers state that the paramilitary groups are not acting contrary to the Constitution and that, consequently, it is not the State's duty to combat them. Such situations shed light on the constraints on the State's actions against paramilitarism, limiting them to public statements or the formulation of policies that are never implemented.

3. Evolution of internal displacement

112. Internal displacement has become a military strategy for gaining territorial control, either by threats or by direct attacks against the civilian population. CODHES recorded 225,000 displaced persons in the first nine months of the year and a significant increase since July. It also pointed out that paramilitary groups continue to be the ones mainly responsible for displacements accounting for 47 per cent of all cases. In 1999, however, the number that can be attributed to the guerrillas increased to 35 per cent, from 29 per cent in 1998.

113. Forced displacement has assumed the proportions of a real humanitarian emergency. Traditionally, the most affected departments were Antioquia, Chocó, Santander, Sucre, Cesar, Magdalena, Bolivar, Córdoba and Putumayo, but in 1999 paramilitary groups launched attacks to open up new fronts and extended their activities to other areas, including the departments of Norte de Santander and Valle del Cauca. Displacement now no longer stops at frontiers and border communities have had to seek refuge in neighbouring countries. The Office has received evidence that some people have been compelled to return to Colombia.

114. The Office has on many occasions notified the Government of its concern about communities at risk of displacement, although this warning has not persuaded the authorities to adopt timely measures and take action. The response has always been belated and incapable of preventing developments resulting in displacements. This was the case in Norte de Santander in the middle of 1999.

115. The Office has received a large amount of evidence of threats and attacks against displaced communities and, in particular, their leaders. Threats against people and organizations working with displaced persons have also increased, especially in the regions of Magdalena Medio and Urabá.

116. Access to humanitarian aid and socio-economic support for the displaced have been insufficient or ineffective. Programmes offering such assistance lack sufficient funding, trained local personnel and the necessary coordination to cope with the current emergency.

117. Security and guarantees have not been properly evaluated when resettling displaced populations in or returning them to rural areas. In many cases, this has resulted in deaths and further displacements. This was the case of Mr. Ge:sain Mora, who was displaced on five consecutive occasions and then killed despite the Office's many warnings about his perilous situation. Moreover, the displaced have not been adequately compensated for loss of property and they still do not have access to land under conditions that would offer a lasting solution to displacement. In some cases, therefore, displaced persons have sought specific agreements with the Government for return or resettlement, but none of these has been fully implemented.

118. Most displaced persons are concentrated in urban areas and there are no adequate policies or solutions for them. This lack of effective and comprehensive attention and protection has forced many of them to beg and has led to the radicalization of protests by the displaced, who

resort to extreme measures such as invading public offices or the premises of humanitarian organizations, such as UNHCR and ICRC, or publicly inflicting physical injuries on themselves. Displaced persons add to the size of large city slums, foreshadowing an increase in social problems with unforeseeable consequences.

4. Situation of groups directly connected with the exercise of fundamental freedoms: human rights advocates, trade unionists and members of religious orders

119. The worsening of the armed conflict and the intolerance of certain sectors have created a climate of intimidation that particularly affects the freedom of opinion, expression, information, conscience and religion of journalists, human rights advocates, members of social organizations, professors and students, as well as public servants involved in these issues.

120. At the beginning of the year, the United Self-Defence Groups of Colombia (AUC) accused NGOs of being "paraguerrillas" and announced that, in retaliation for group kidnappings by the guerrillas, they would abduct members of NGOs, trade unionists, social researchers and other persons whom they considered to be agents of the insurgency. Examples of this were the kidnapping of four members of the People's Training Institute of Medellín and of Mrs. Piedad Córdoba, President of the Senate Human Rights Commission. Threats, harassment and attacks against human rights advocates forced several organizations, including the Political Prisoners Solidarity Committee (CSSP), to close their offices.

121. During 1999, the Office received complaints of the violent deaths of seven journalists owing to their work. The journalist and humorist, Jaime Garzón, who had established contacts with the guerrillas with a view to achieving the release of hostages, was killed by hired assassins at his place of work. Many journalists have received threats and nine have had to leave the country. Most of the threats are attributed to paramilitary groups. The Office is also concerned that no fewer than 18 journalists were taken hostage by guerrilla groups (see section D.3, paras. 85-89).

122. The death of Professor Jesús Bejarano Avila, who was very actively involved in activities relating to peace, confirmed that the armed conflict had invaded the country's universities. Since January, the AUC has made threats and issued press releases against the professors, workers and trade union members of several Colombian universities. This problem has emerged mainly in the universities of Antioquia, Córdoba and the National University. However, the universities of the Atlantic and of Huila were also the targets of harassment. The threats were carried through in the case of Gustavo Alonso Marulanda García, a student of the University of Antioquia.

123. Workers and trade union leaders, such as Tarsicio Mora of the Centre for Economic Development Studies (FECODE), and members of the Trade Union Federation (CUT) and Sintramunicipio Cartago, were also victims of threats and attacks. Likewise, mayors and municipal employees were targeted and had to move or go into exile, while some lost their lives.

124. The guerrillas have made attempts on the lives of religious ministers in acts that appeared to be motivated by the calling of the victims - as in the case of the Protestant pastors Honorio Triviño and Miguel Antonio Ospina, in the department of Meta, and Diego Molina, in

the department of Huila. The guerrillas have also forced places of worship to close, prevented religious services and banished several ministers. Acts of this nature were committed by the ELN in Arauca and by the FARC in the demilitarized zone and in Guaviare.

125. The paramilitary groups have repeatedly threatened members of the Catholic Church and of other religious orders because they support the Peace Communities, particularly in the department of Antioquia. They have also killed some members of religious congregations and displaced others.

126. In accordance with its mandate, the Office in Colombia has continued to follow up international recommendations relating to human rights and international humanitarian law. The present chapter presents an analysis of the measures and action taken by the State to implement the recommendations concerning Colombia formulated by the Office of the United Nations High Commissioner for Human Rights in its previous reports, the thematic procedures of the Commission on Human Rights and treaty monitoring bodies.

127. The recommendations made by these bodies refer in particular to the need to adopt a human rights policy and a national plan of action as well as effective measures to combat impunity through standard setting activities (characterization of enforced disappearance, reform of the military penal code, abolition of so-called regional justice, etc.), the sanctioning of public servants responsible for human rights violations and international humanitarian law and measures to protect judicial officials and persons participating in criminal proceedings, among others. Similarly, these recommendations called for the adoption of effective measures and action to combat paramilitarism and to find appropriate solutions to the problem of displacement. They also placed emphasis on the need for decisive action to protect human rights advocates and other persons at risk and victims of violations; the strengthening of programmes and measures intended to guarantee the economic, social and cultural rights of the population as a whole; and the adoption of gender-sensitive policies and adequate protection of the rights of the child.

V. FOLLOW-UP OF INTERNATIONAL RECOMMENDATIONS

128. It is worth noting that, in its judgement No. T-568 (1999), the Constitutional Court ruled that the recommendations of international bodies create a threefold obligation for Colombia: they must be respected and applied by the administrative authorities, serve as a basis for the drafting of legislation and provide guidelines on the meaning and scope of orders issued by guardianship judges.

A. Recommendations on the adoption of human rights and international humanitarian law measures, programmes and policies

129. On 12 August 1999, the President of the Republic submitted his document on the "Policy for the promotion, respect and guarantee of human rights and international humanitarian law", which establishes the proposed objectives and priority areas of action for the term of the current Government, 1998-2002. It represents a significant commitment to the issue on the part of the President and involves a challenge to the authorities and institutions that must implement it

through specific measures that are compatible with the stated objectives. This general outline is a very useful starting point for formulating a national plan that is in keeping with the aims of the Vienna Declaration and Plan of Action.

130. The State's efforts to deal with the problem of displacement have been inadequate because of its magnitude. This is revealed by the lack of adequate resources to cope with the needs of displaced persons and the failure of State institutions to adopt regulations to implement Act No. 387; they made their action conditional on the adoption by the Economic and Social Policy Council (CONPES) of the Government's policy on assistance for the displaced. In particular, the failure to establish an early warning system is noteworthy. Moreover, delays and problems were encountered in the administrative reorganization that assigned the function of coordinating assistance for displaced persons to the Social Solidarity Network. The Office recognizes that this reorganization could boost the assistance provided to displaced persons provided that this body receives political, technical and financial support.

131. The Government has repeatedly been urged to dismiss officials when there are good grounds for believing that they have committed serious human rights violations. In general, the dismissal of senior officials suspected of being connected with acts that violated human rights is carried out by means of a simple separation from service (known as the "llamamiento a calificar servicios"), which is not punitive in nature, does not result in disqualification to hold public office and may not be referred to in a person's record.

132. The Procurator-General's Office submitted a bill for the reform of the Disciplinary Code in which conduct constituting serious human rights violations was classified as a most serious disciplinary fault, punishable by dismissal and permanent disqualification. However, at the end of the year the legislative chambers had still not considered the bill.

133. The High Commissioner has recommended that an effective policy should be adopted to dismantle paramilitarism by arresting, prosecuting and punishing those who inspire, organize, lead, belong to, support and finance it. This type of action by the State has repeatedly been shown to be of limited effect and inappropriate (see chap. IV.E.2, paras. 108-111).

134. The Office welcomes the adoption of the law, pending presidential approval, which regulates the adequate and effective participation of women at decision-making levels of the various branches and organs of the public administration, assigning 30 per cent of such jobs to women. On 10 December 1999, Colombia signed the recently adopted Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women. At the end of the year, a proposal was submitted for an equal opportunities for women plan, which had been provided for in the National Development Plan. However, gender-sensitive policies and those for the advancement of women have not been sufficiently developed.

B. Recommendations on legislation

135. The Office of the High Commissioner and other international human rights bodies have repeatedly recommended the abolition of regional justice. This year, Act No. 504 was adopted on the Government's initiative; it reforms regional justice, replacing it by so-called "specialized justice". Although the Office has identified the need to provide protection for and ensure the

security of judicial officials, witnesses, victims and other parties to criminal proceedings, the Government and the State concentrated on maintaining measures restricting judicial guarantees, without strengthening those aimed at providing effective and efficient protection to individuals.

136. The new Act provides for the possibility, in exceptional circumstances, of concealing the identity of prosecutors and witnesses and establishes pre-trial detention as the sole security measure in the case of offences heard under the specialized justice system; this continues to violate fundamental principles of due process and judicial guarantees. Positive aspects include the abolition of "faceless judges", the restoration of public hearings at the trial stage, the prohibition on statements being made by informers from Judicial Police agencies while concealing their identity and the prohibition on handing down guilty verdicts based solely on the evidence of persons whose identity is concealed.

137. The new Military Penal Code was adopted in June 1999; it should enter into force within one year of its enactment, subject to the adoption of a statutory law establishing the administrative structure for the military courts. Certain international recommendations have been incorporated - albeit inadequately - into the Code. With regard to the concept of "service-related crime", the new Code does not take account of all the elements of Constitutional Court judgement No. C-358/98 and, owing to its ambiguity, continues to offer the possibility of conflicting interpretations. Furthermore, the only crimes it excludes expressly from military jurisdiction are torture, genocide and enforced disappearance and it fails to refer to other serious human rights violations and international humanitarian law. Nor does it explicitly exclude obeying orders as a pretext for avoiding responsibility. It provides for trial by a single court of generals and admirals, thus violating the right to review by a higher court.

138. The establishment of the principle of the separation of command and judicial functions, the creation of military criminal prosecutors and the introduction of criminal indemnification proceedings are important steps forward. However, the new provisions maintain senior officers as members of courts, the prosecutor's offices created are not part of the judiciary and the party bringing criminal indemnification proceedings may not examine the security forces' confidential documents.

139. With regard to the adoption of a law on enforced disappearance consistent with the United Nations Declaration on the Protection of All Persons from Enforced Disappearance, Act No. 142/98 characterizing enforced disappearance, genocide, forced displacement and torture was adopted on 30 November. However, it did not enter into force because it was objected to by the President of the Republic on 30 December on the grounds of unconstitutionality and the inappropriateness of the article characterizing genocide against "a political group or community with its own identity based on political motives", the argument being that such wording might in practice hamper the exercise of the security forces' constitutional and legal functions.

140. The text of the Act took account of several of the recommendations on enforced disappearance and was a historical breakthrough following more than a decade of unsuccessful attempts and repeated international recommendations. Another positive factor was the characterization of the other crimes which are serious violations of human rights, such as genocide, torture and displacement. Some changes were, however, made in the text adopted

some weeks previously by the Chamber's First Committee, particularly with regard to jurisdiction and obeying orders. Displacement is not included under either heading and, under the former, the specific elements of the Constitutional Court's judgement on the restrictive interpretation of military jurisdiction are left out. The objection was widely criticized by NGOs, analysts and politicians, since it means a further delay in the adoption of a fundamental law on which work has been under way for several years. The Office in Colombia drew attention to the need to reconsider it promptly with a view to its final adoption and entry into force.

141. On 19 December, the draft amendment to the Penal Code was submitted for presidential approval; it incorporated the provisions of the above-mentioned Act on the characterization of the crimes of enforced disappearance, genocide, forced displacement and torture and also characterizes 27 breaches of international humanitarian law. However, the Government raised objections to 85 articles of the draft, including those mentioned above, on the ground that they were unconstitutional and inappropriate.

142. The State signed the Rome Statute of the International Criminal Court, but the Government has so far not submitted it to Congress for ratification. Moreover, the Ottawa Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and their Destruction has still not been ratified, although the bill adopting it has already been submitted to Congress for consideration. The guerrillas continue to use anti-personnel mines, particularly home-made mines. The military forces continue using mines to protect their installations and no strategy has yet been devised for destroying them. There is still no comprehensive study of the areas of Colombian territory affected by the presence of these mines and on the number of victims they have caused. Congress also adopted the Paris Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction, which is now under review by the Constitutional Court, an essential step prior to ratification.

143. The reform of the Juvenile Code to bring it into line with the Convention on the Rights of the Child has still not been submitted to Congress. National provisions, which are incompatible with international standards, continue to be applied on issues such as child labour and the adoption of non-judicial measures to deal with young offenders. In accordance with Act No. 548 of 1999, which extends the applicability of the Public Order Act, the State prohibited the enlistment of minors aged under 18 in the National Army and dismissed 1,003 minors who were performing military service.

144. Mention should also be made of the promulgation of Act No. 497 (1999), creating justices of the peace and regulating their organization and functions, and the entry into force of Act No. 472 (1998) on the establishment of class actions and group actions, and remedies that protect collective rights, although their implementation is still pending.

145. The legislation on the "Special Vigilante and Private Security Services", known as the "Convivir" associations, has not been repealed, so that private individuals can still offer such services. However, since the operations of these groups were restricted by legal decisions and legislation, their number has gradually declined. The Office has strong reasons to believe that many of their members are currently linked to paramilitary activities.

C. Recommendations on the functioning of justice

146. The difficulties and obstacles connected with the functioning of justice that were identified include those relating to the lack of security of judicial officials and parties to proceedings, ineffectiveness in executing arrest warrants, the transfer of cases to the military criminal justice system, the slow pace of proceedings once a trial is under way and the absence of convictions, particularly when officials are involved in human rights violations.

147. There are various committees that encourage the investigation of human rights violations and breaches of international humanitarian law.[3] The Office has provided advice to and acted as an observer in several of them. The majority has met on few occasions and, although they were supposed to be executive committees, they have confined themselves to analysing problems, but without any strong, concrete action to solve them. The Special Committee to Promote the Investigation of Human Rights Violations, chaired by the Vice-President of the Republic, has met only twice, supported by other meetings of a working group. In the cases it considered, it recorded that accusations had been made, but no criminal convictions. Owing to legislative shortcomings, moreover, disciplinary penalties in many of the cases were limited to "severe reprimands", which did not even include dismissal, as in the case of the murder of the senator of the Manuel Cepeda Patriotic Union.[4]

148. Recommendations on military criminal justice are not acted on in practice. The Supreme Judicial Council continues to refer cases of serious human rights violations and breaches of international humanitarian law to the military courts. There continue to be large numbers of guilty verdicts for strictly military offences (such as desertion), in the military courts, but very few for conduct involving human rights violations. The omissive nature of such conduct has been alleged on several occasions as a means of assuming jurisdiction over such violations. This has led to the incongruous situation of considering that, for one and the same act, senior officials should be prosecuted by military courts, while the conduct of their subordinates should be tried by ordinary courts. One example is the judgement handed down in the case of the Mapiripán massacre. In this case, the Procurator-General's Office requested the judicial authorities to provoke the conflict of jurisdiction that assigned the prosecution of some of the accused officers to the military courts.

149. The Human Rights Unit of the Attorney-General's Office continued to play an important role in investigating human rights violations and breaches of international humanitarian law, but it was unable to overcome the obstacles mentioned with regard to security, resources, gaining greater experience and executing its arrest warrants. Moreover, the institutional weakness affecting various sectors of the State was particularly evident in this Unit in 1999.

150. The programme for the protection of witnesses, victims who are officials and parties to criminal proceedings has been incapable of providing adequate measures and resources for those who are threatened, especially in proceedings involving paramilitary or guerrilla groups. Although this programme is designed to protect judicial officials, its application has been limited to parties to proceedings, since the limited resources assigned to it have not allowed it to provide protection to the former. In practice, the programme has serious limitations as to the scope, duration and types of protection, as well as resources. The Office has received several complaints from witnesses and victims who, although subject to the protection programme, find

themselves unprotected after a short time and subject to repeated threats against their life and integrity and that of their families. Several of the complainants have been obliged to resort by their own means to international assistance to leave the country and, in other cases, they become part of the large number of displaced persons.

D. Recommendations on the protection of vulnerable groups

151. Special Protection Programme of the Ministry of the Interior is the official mechanism mainly used to protect persons who are threatened. In 1999, the Programme tried to provide measures of protection in 93 cases involving individuals and organizations. Administrative problems and delays in allocating the budget have seriously compromised its effectiveness. With an implementation rate of approximately 50 per cent at the close of the year, there is a real possibility that the budget for the Programme will be drastically reduced in 2000. It is worth mentioning that, despite repeated requests, the remaining balance of the funds allocated for measures of "hard" protection (escorts, bullet-proof vests, etc.) under the DAS is still not known.

152. The Office monitored the State's commitment that the Procurator-General's Office would review the military intelligence files containing information on members of NGOs. Even though the Office was advised in September that this review had been completed, the results are still not known.

153. Despite the Colombian Government's declared willingness to protect workers' rights, the Office is concerned by the position adopted by senior public officials that "acts of violence against leaders and members of trade unions are only a reflection of the armed conflict and a fluctuating manifestation of the different forms of criminal activity that affect the country".[5] The Office considers that violence against the trade union movement cannot be reduced to this explanation and recalls the State's inescapable obligation to protect and guarantee the life, integrity and trade union rights of workers. The Office expressed its concern about bill No. 135 (1999), which has been submitted to Congress, amending the Ministry of the Interior's protection programme for persons who have been threatened, covered by Law No. 418 of 1997. This bill covers journalists and social communicators as protected persons but not trade unionists and other representatives of community, social, ethnic groups, etc. Lastly, on 23 December, Law No. 418 was extended without change on this point so that trade unionists remain covered as before. The proposal that it should also include journalists was rejected. It is worth recalling that this is almost the only programme that provides such protection, apart from that of the Attorney-General's Office.

154. The Office is concerned about the absence of a strategy or institutional mechanisms to protect displaced persons and communities at risk of displacement.

VI. ADVISORY AND TECHNICAL ASSISTANCE ACTIVITIES OF THE OFFICE IN COLOMBIA

155. Advisory and technical assistance activities are closely linked to the monitoring carried out by the Office in Colombia. Such monitoring, together with the experience gained in the last two years, has enabled the Office to diagnose the situation of Colombian institutions and decide

on priority areas for action and support. Cooperation is designed to help promote the rule of law, implement the recommendations made by various United Nations bodies and strengthen national capacity in the field of human rights.

156. Under the terms of its mandate and in accordance with the above-mentioned approach, during the period covered by this report, the Office intensified its dialogue with the most senior representatives of the national institutions responsible for the protection and promotion of human rights. It has reached an agreement with the various national authorities on the objectives of their joint efforts, and the results to be achieved, which, during this first phase, are specific and modest, with a visible and measurable impact. Attention is drawn to the receptiveness and enthusiasm of both governmental and non-governmental authorities for the proposed programme of activities. The Office has signed various cooperation agreements with institutions of the Executive and the Judiciary, monitoring bodies and academic establishments.

157. Various meetings and activities were organized in the context of this cooperation with a view to providing advice on determining assistance needs and priorities and in order to offer solutions to various problems connected with the specific functions of the institution. One example was the advice provided by the Office to the Vice-President's team in the formulation of government policy on human rights and international humanitarian law. Various specific measures and activities were also undertaken to determine the programme of activities and embark on the implementation of the cooperation agreements.

A. Office of the Vice-President of the Republic

158. On 21 May 1999, the Office signed a framework agreement for technical cooperation with the Vice-President, as the person responsible for coordinating the Government's human rights policy. The specific objectives of this assistance are:

(a) Formulation of the national plan of action on human rights and international humanitarian law;

(b) Implementation of policies, programmes and measures to comply with the recommendations of national and international human rights bodies and mechanisms; and

(c) Implementation of the programme to promote and raise awareness of human rights.

Following the submission of the above-mentioned document on human rights and international humanitarian law policy, the Office will provide strong support for the important task of giving priority to action and activities with a view to its implementation.

B. Attorney-General's Office

159. The Office has signed a letter of intent with the Attorney-General's Office in order to provide advice on:

(a) The design of a protection system for witnesses, victims and officials of the Attorney-General's Office that responds better to the shortcomings of existing mechanisms and deals effectively with the issue of protection in order to guarantee the satisfactory administration of justice; and

(b) The elaboration of a training programme on human rights and international humanitarian law for the staff of the Human Rights Unit of the Attorney-General's Office and for the Technical Investigation Unit (CTI) of this Unit.

C. Supreme Judicial Council

160. The Office and the Supreme Judicial Council have signed a cooperation agreement with a view to preparing a human rights and international humanitarian law course to be included in the training of officials in order to improve the application and interpretation of such standards. Studies and research in this area will also be encouraged in order to strengthen the investigative capacity of officials and instructors of the Judicial School.

D. Procurator-General's Office

161. The Office has signed a memorandum of understanding with this institution, which heads the Public Prosecutor's Office, in order to provide advice and technical assistance to:

(a) Strengthen preventive and disciplinary capacity in investigations of human rights violations;

(b) Encourage links between various segments of society and the Procurator-General's Office and their access to preventive, monitoring and disciplinary mechanisms in this area; and

(c) Promote nationwide training programmes for officials of the Procurator-General's Office.

E. Office of the People's Advocate

162. The Office and the Office of the People's Advocate have signed a framework cooperation agreement with a view to:

(a) Improving the system for receiving and processing complaints;

(b) Setting up an early warning system to prevent massacres and forced displacement; and

(c) Analysing the public advocacy situation and the effectiveness of the right to an adequate defence provided by the State.

During the first phase, the assistance will be provided to the National Complaints Consideration and Processing Department and the National Public Advocacy Department. Initially, steps will be taken to analyse the situation in both departments so that action may be taken to provide citizens with a prompt and effective response.

F. National University

163. As a State academic institution, the National University is responsible for training future professionals, including those in the field of law. Accordingly, the Office in Colombia and the University have signed a framework assistance and technical cooperation agreement to promote:

(a) The design and formulation of educational curricula on human rights and international humanitarian law;

(b) Activities and programmes to raise awareness of international standards and recommendations in this field; and

(c) Activities and programmes designed to incorporate the teaching of these rights into the normal university curriculum.

G. Non-governmental organizations

164. During the period covered by this report, the Office began defining thematic guidelines for advisory services in order to strengthen the capacity of NGOs to make proposals; these guidelines are being incorporated into training, promotion and awareness-raising activities on human rights and international humanitarian law.

VII. CONCLUSIONS

165. In 1999, serious violations of civil and political rights continued to occur throughout the national territory. The most noteworthy are violations of the right to life, personal integrity, liberty and security of person, freedom of movement and residence, and due process. The Colombia Office's main concerns were the seriousness of internal displacement, the problem of impunity and the weakening of government agencies.

166. All this pointed up the State's fragility and its ineffectiveness in preventing attacks and protecting a large number of threatened persons and population groups throughout the country. The deterioration of the human rights situation encompassed civil and political rights, as well as economic, social and cultural rights. The latter were affected by the circumstances described above and, in particular, by the national economic crisis and the vulnerability of trade unions and social leaders.

167. The armed conflict became even worse during the year and had serious consequences for the civilian population: the paramilitary groups intensified their activities by killing civilians and the guerrillas increased their taking of hostages, at times on a large scale.

168. The Government has not given sufficient priority attention to human rights and international recommendations. The peace talks were not always closely related to human rights and failed to focus on other immediate challenges in the problem areas of such rights, including economic, social and cultural rights. The document on human rights and international humanitarian law policy submitted by the Government constitutes a valuable initiative, but its objectives must be translated into coherent and harmonious action and decisions that are respected and applied by all government authorities.

169. At the same time, faced with the steady worsening of the armed conflict, none of the parties to the hostilities has made any obvious effort to respect the minimum humanitarian standards that would alleviate the suffering of the civilian population and, in general, of all persons and property protected by international humanitarian law.

170. The State bears responsibility for the present proportions and complexity of the paramilitary problem. The persistence of omissive and permissive attitudes and the direct and indirect aiding and abetting of paramilitarism, is aggravated by the absence of any effective policy to combat it.

171. The State has taken insufficient action on displacement in matters of prevention, protection and assistance. Moreover, when it has tried to deal with the situation of displaced persons and communities, its attempts have been primarily - and inadequately - directed simply at meeting basic needs, and not at ensuring security or durable solutions.

172. The State has not fully assumed its obligation to protect the life and integrity of the population under threat, in particular, human rights advocates, journalists, trade unionists, displaced persons, academics, indigenous peoples, members of religious orders and parties to criminal proceedings. There is no sign that the State or the relevant institutions are making real efforts to allocate sufficient resources to programmes for the protection of threatened persons run by the Attorney-General's Office and the Ministry of the Interior. However, the Office in Colombia takes note of the presidential directive on respect for the work of protecting and promoting human rights and hopes that it will be scrupulously carried out and that those who try to stand in its way will be effectively punished.

173. In addition to the serious deterioration of the fundamental rights situation, the problem of impunity persists so that persons responsible for human rights violations and breaches of international humanitarian law escape prosecution. This impunity is sustained not only by functional factors, but also by considerations of a political nature. Moreover, it undermines the prestige of institutions, discourages those who denounce it and reinforces criminal activity.

174. A number of important legal changes were made in 1999. Although the Office managed to ensure that its observations and the international recommendations were considered during the discussions, it has noticed a certain amount of ambiguity on the part of the Government with regard to its decisive support for some of them. For example, the Ministry of Justice tried to take account of many international standards and recommendations in the reform of regional justice but the Government ended up supporting the bill which was put forward by the Ministry of the Interior and which provided for more restrictions on procedural guarantees of the defence and was further removed from the recommendations.

175. The military justice system continued to function in the same way that had prompted comments by the Office in previous reports. The new Military Penal Code does not constitute a complete answer to the international recommendations made to Colombia in this regard (see para. 137). It is a matter of concern that its entry into force has been made conditional on the enactment of a law whose preparation involves complex and lengthy procedures.

176. The President's objection to the bill adopted by the Congress on enforced disappearance, genocide, forced displacement and torture is a serious disappointment in efforts to give a meaningful response to international recommendations and to a serious gap in legislation. Furthermore, the Government's objection to various articles of the Penal Code reform bill, which incorporates the characterization of enforced disappearance, genocide, forced displacement and torture as well as other serious human rights violations constituting breaches of international humanitarian law, also constitutes a step backward in the matter of compliance with international recommendations and similarly leaves an important gap in legislation.

177. The Office will monitor closely the way the competent bodies interpret and give effect to the legislative amendments whose compatibility with international standards and principles is commented on above.

178. The increase in the resources appropriated for the prison system has not been reflected in the solutions proposed to cope with the problems affecting it. The State has failed to adopt an appropriate prisons policy to deal with overcrowding, insecurity and dreadful conditions.

179. Nor have there been any fundamental changes or measures in the context of economic, social and cultural rights that would decisively encourage their equitable exercise. Furthermore, the structural adjustment policy and the economic crisis from which the country is suffering have had high social costs.

180. Although recognized in the Constitution, freedom of association has lacked a legal framework that would ensure its full and effective exercise in accordance with international instruments.

181. The State has, in its legislation, fulfilled its obligation to guarantee the appropriate and effective participation of women at all decision-making levels of public administration. However, no progress has been made in implementing policies, projects and programmes to incorporate the gender perspective and raise awareness of specific legislation on women, or the issue of violence against women, in training and education programmes at all levels.

182. The State has not fulfilled its obligation under the Constitution and agreements to take affirmative action on behalf of discriminated and underprivileged groups. Criminal legislation still does not define discriminatory behaviour as a punishable act.

VIII. RECOMMENDATIONS

183. The United Nations High Commissioner for Human Rights, in accordance with the provisions of the Agreement establishing the Office in Colombia, and with the pronouncements, observations and recommendations made to the Colombian Government by the various United Nations organs, mechanisms and agencies monitoring the human rights situation in Colombia, submits the following recommendations:

Recommendation No. 1

184. The High Commissioner again draws the Colombian State's attention to the importance of giving priority to an effective, coherent and comprehensive policy on human rights and international humanitarian law.

Recommendation No. 2

185. The High Commissioner again urges all parties to the armed conflict to adapt their conduct to ensure unconditional respect for international humanitarian law standards and the effective protection of the civilian population.

Recommendation No. 3

186. The High Commissioner encourages the Government of Colombia to continue its efforts to achieve a negotiated solution to the armed conflict.

Recommendation No. 4

187. The High Commissioner urges the Colombian State to combat paramilitarism effectively and to dismantle it completely by arresting, prosecuting and punishing all those who inspire, organize, lead, belong to, support and finance it, including public servants who have links to it.

Recommendation No. 5

188. The High Commissioner reaffirms the Colombian State's obligation to respond adequately, in a comprehensive and priority manner, to the serious problem of displacement by adopting effective measures to prevent it and offering protection and care to displaced persons. She recommends the establishment of an early warning system, the urgent implementation of Act No. 387, the establishment of the national information network referred to in the Act and the implementation of the policy of the Economic and Social Policy Council (CONPES), in accordance with the Guiding Principles. Furthermore, she urges that an appropriate and specific legal mechanism should be devised for relocating or returning displaced persons that facilitates access to land ownership. She further urges compliance with the recommendations of the Special Representative of the Secretary-General on internally displaced persons (E/CN.4/2000/83/Add.1) and the implementation of the objectives of the Guiding Principles on the subject.

Recommendation No. 6

189. The High Commissioner urges the Colombian State to assume responsibility for protecting the life and integrity of prosecutors, judges, judicial police officials, victims and witnesses, without violating the fundamental rights of the accused. She also urges it to make major efforts to earmark adequate resources for protection programmes.

Recommendation No. 7

190. The High Commissioner urges that effective measures should be adopted to guarantee the life and integrity of human rights advocates, trade unionists, indigenous peoples, journalists, academics, members of religious orders and public servants who are threatened as a result of activities linked to the exercise of fundamental rights and freedoms. She also urges that protection programmes for such persons should be strengthened by the allocation of sufficient resources. In this connection she draws attention to the recommendations contained in the joint report of the Special Rapporteur on torture and the Special Rapporteur on extrajudicial, summary or arbitrary executions on their visit to Colombia (E/CN.4/1995/111).

Recommendation No. 8

191. The High Commissioner stresses that the Colombian State should adopt all the measures necessary to ensure the full enjoyment and exercise of fundamental rights and freedoms throughout the national territory, including the so-called "demilitarized zone".

Recommendation No. 9

192. The High Commissioner reaffirms the Colombian State's obligation to combat impunity through the proper administration of justice, the enforcement of national and international standards, the strengthening of the work of the Attorney-General's Office and, particularly, its Human Rights Unit, respect for the principles of independence and impartiality and the effective punishment of those responsible for human rights violations and breaches of international humanitarian law. She recalls in this connection the observations formulated by the Special Rapporteurr on the independence of judges and lawyers (E/CN.4/1998/39/Add.2). She also urges the adoption of the new Single Disciplinary Code.

Recommendation No. 10

193. The High Commissioner urges the Colombian Government and Congress to adopt the legislation required for the entry into force of the new Military Penal Code. This legislation should take account of international recommendations and the principles of the independence and impartiality of officials responsible for administering justice, their legal training and the restricted nature of military jurisdiction. She also urges the competent authorities to apply and interpret these principles in an appropriate manner.

Recommendation No. 11

194. The High Commissioner reminds the Colombian authorities of the need to re-establish the full applicability of the right of habeas corpus by adopting the legislative reforms necessary to guarantee every person the right to challenge the lawfulness of his detention in peremptory terms before an authority other than the one that ordered the detention.

Recommendation No. 12

195. The High Commissioner recommends to the Government of Colombia that arrests for preventive reasons by the police force, called "temporary arrests", should be in keeping with international provisions that prohibit unlawful or arbitrary deprivation of liberty. To this end, she urges it to make the necessary changes in legislation relating to the police.

Recommendation No. 13

196. The High Commissioner reiterates that the Colombian State must find adequate solutions to the prison situation by adopting a prisons policy consistent with the relevant international principles, by limiting pre-trial detention and adopting measures to solve structural problems and improve conditions of detention.

Recommendation No. 14

197. The High Commissioner urges the Colombian Government to submit a bill to ratify the Rome Statute of the International Criminal Court.

Recommendation No. 15

198. The High Commissioner recommends to the Colombian State that it should not continue postponing the characterization of enforced disappearance and other serious human rights violations and the ratification of the Inter-American Convention on Forced Disappearance of Persons.

Recommendation No. 16

199. The High Commissioner urges the State to incorporate the gender perspective into all its programmes and policies and earmark the resources necessary for their implementation, to accord priority attention to women victims of various kinds of violence and displacement and to implement the observations and recommendations formulated by the Committee on the Elimination of Discrimination against Women in the report on its twentieth session (1999) (see A/54/38/Rev.1, First part, paras. 348-401).

Recommendation No. 17

200. The High Commissioner reiterates the need to bring domestic legislation into line with the Convention on the Rights of the Child, as pointed out by the Committee on the Rights of the Child in the report on its fifth session (1994) (see CRC/C/24, paras. 67-82). She also urges the

Colombian authorities to adopt effective measures and programmes to provide care for children detached from the armed conflict, prevention and protection programmes for the victims of sexual abuse and exploitation in the workplace and programmes to provide suitable care for juvenile offenders and street children.

Recommendation No. 18

201. The High Commissioner reminds the Colombian State of its obligation to adopt all relevant measures to guarantee the exercise of economic, social and cultural rights, to focus investments and public policies on the least privileged, gradually to reduce inequality so as to make basic fundamental rights accessible to the population as a whole, periodically to evaluate the consequences of structural adjustment policies and to improve the system of indicators to measure achievements in this regard. She also urges it to comply with the recommendations addressed to Colombia by the Committee on Economic, Social and Cultural Rights (E/CN.12/1995/12, paras. 21-30).

Recommendation No. 19

202. The High Commissioner recommends the adoption of the legal reforms necessary to adapt domestic legislation to ILO Conventions Nos. 87 and 90 on freedom of association and protection of the right to organize and on the right to organize and to bargain collectively, as well as the follow-up to ILO recommendations.

Recommendation No. 20

203. The High Commissioner urges the adoption of domestic legislation on racial discrimination providing for specific penalties and prohibitions, in accordance with the International Convention on the Elimination of All Forms of Racial Discrimination and the request of the Committee on the Elimination of Racial Discrimination contained in the report on its two regular sessions in 1999 (A/54/18, paras. 474-481).

Notes

[1] Study by Jairo Nuñez and Fabio Sánchez, Centre for Economic Development Studies (CEDE), Faculty of Economics, Universidad de los Andes, Santafé de Bogotá, 1999.

[2] El Tiempo newspaper, (17 February 1999). The calculation was made by the Investigative Committee of the Attorney-General's Office, composed of five prosecutors from the Anti-Corruption Unit.

[3] These are, in particular, the Special committee to Promote the Investigation of Human Rights Violations, created by Decree No. 2429 (1998), the Interinstitutional Commission to Monitor Investigations into Human Rights Violations in the Department of Arauca, created by

Decree No. 2321 (1998), the Human Rights Commission for Indigenous Peoples, created by Decree No. 1396 (1996) and the Human Rights commission for Workers, created by Decree No. 1828 (1998).

[4] In this case, criminal sentences of 43 years' imprisonment were handed down in December 1999 against Sgt. J. Gil Zuñiga and Sgt. H. Median Camacho, former members of dismantled Army Brigade XX, and the head of the AUC, Carlos Castaño, was acquitted.

[5] Letter to the Vice-Chairman of the ILO Governing Body from the Colombian Ambassador to the United Kingdom, Mr. Humberto de la Calle (12 October 1999).